

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926

TELEPHONE: (916) 263-2113

FAX: (916) 263-2099

E-mail: geology@dca.ca.govWebsite: www.dca.ca.gov/geology

**MINUTES OF THE MEETING
OF THE
BOARD FOR GEOLOGISTS AND GEOPHYSICISTS
August 3, 2001**

**2535 Capitol Oaks Drive
Sacramento, CA 95833-2926**

1. CALL MEETING TO ORDER

Dorene Dominguez, President, called the meeting to order at 8:30 AM.

2. ROLL CALL TO ESTABLISH QUORUM

Dorene Dominguez, President

Karen Melikian

Seena N. Hoose

Sharon Jasek Reid

Others in attendance:

Paul Sweeney, Executive Officer

Gary Duke, Legal Counsel

George Dunfield, Enforcement Manager

Mary Lynn Ferreira, Associate Governmental Program Analyst

Dennis Alexander, Professional Engineers in California Government

Bob Anderson, Chair, Association of Engineering Geologists,
Sacramento Section

Richard Bailey, Office of Environmental Health Hazard Assessment

Cathy Gaggini, Professional Engineers in California Government

Allan Hirsch, Office of Environmental Health Hazard Assessment

J. C. Isham, Chair, Legislative Committee

Arlene Sakazaki, Department of Consumer Affairs, Budget Office

Warren Sherling, Earth Technics

Julia Turney, Member, Technical Advisory Committee

John Williams, Ph.D., Chair, Examination Committee

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the
Quality, Value and Availability of Geological and Geophysical Services Offered to the People of California*

3. PUBLIC COMMENT ON NON-AGENDA ITEMS

Ms. Dominguez announced that a Certificate of Appreciation is being sent to Donna Thompson for her service to the Board as a member of the Technical Advisory Committee.

4. APPROVAL OF THE MINUTES OF THE BOARD MEETING OF APRIL 20, 2001

Ms. Hoose moved to approve the minutes of the open and closed sessions of the April 20, 2001, meeting.

Ms. Melikian seconded.

The motion passed unanimously.

5. EXECUTIVE OFFICER'S REPORT

Paul Sweeney, Executive Officer:

- a. Arlene Sakazaki, Budget Analyst, reviewed the Board's actual expenditures for Fiscal Year 2000-01, an analysis of the fund condition through 2003-04 and an expenditure history. She advised the Board that there will be a deficit fund condition in Fiscal Year 2002-03 without a 12% savings. With 12% savings, there will be a deficit fund condition in Fiscal Year 2003-04. Ms. Sakazake also advised that in Fiscal Year 01-02, the Malibu repayment will end, reducing revenue by \$36,000.

Mr. Sweeney reported that the 2001-02 budget includes authorization to hire one half-time Associate Engineering Geologist and one half-time Office Assistant.

Mr. Sweeney also pointed out that the Board has reduced spending and will continue to do so.

- b. George Dunfield, Enforcement Manager, reviewed the status of and statistics on enforcement and complaint cases since May 7, 2001.

Two new technical experts have been recruited. They have extensive experience and will greatly enhance the enforcement efforts.

Staff continues to receive inquiries about the Registered Environmental Assessor Program and activities of Registered Environmental Assessors.

Mr. Dunfield reported that a preliminary analysis of enforcement cases indicates that a large backlog of environmental complaints exists.

The Board reviewed a draft Enforcement Process Chart. The Board directed Mr. Dunfield to identify on the chart what public information is provided and where opportunities for a respondent to provide information or to appeal occur. The chart will be posted on the website and will be in the next newsletter.

(Board Directive No. 01-20) – (Dunfield)

The Board issued a Citation and Fine of \$2,500 to Clyde L. Hebbbron for violations of subsections (b) and (c) of section 7860, Business and Professions Code, and section 3065(a)(2), Title 16, California Code of Regulations. Mr. Hebbbron paid the fine, and the case was closed on July 5, 2001. This information will be posted on the website.

- c. Postcards announcing the availability of the Summer 2001 *California Geologists and Geophysicists* Newsletter have been sent.

Information Bulletin 01-02 was released at the time of the last Board meeting. It contained the joint letter issued by the Board and the California Environmental Protection's Office of Environmental Health Hazard Assessment (OEHHA) clarifying that Registered Environmental Assessors cannot practice geology without a Registered Geologist license.

- d. Effective July 1, 2001, the Bagley-Keene Open Meeting Act was amended to require that public meeting notices be posted on the Internet. The Board directed Mr. Sweeney to advise the Department of Consumer Affairs' (DCA) Executive Office that the Board has provided meeting notices on its website for several years.

(Board Directive No. 01-21) – (Sweeney)

There have been 41,000 hits on the website.

- e. DCA's 2001 Strategic Plan is available. Mr. Sweeney previously provided copies to all Board members and Committee chairs.

Board members received copies of the Board's April 2001 Strategic Plan adopted at the last Board meeting.

- f. Mr. Sweeney provided his Executive Officer's Activity Report for Late Spring/Early Summer 2001.

- g.** The Board received a copy of a letter, dated July 13, 2001, from John G. Parrish, Ph.D., Executive Officer, State Mining and Geology Board, regarding its formation of a Technical Advisory Committee on Forest Geology to address technical and policy

issues related to geologic studies on forested lands. Mr. Sweeney advised he is referring Dr. Parrish's letter to the Board's Technical Advisory Committee.

The California Council of Geoscience Organizations (CCGO) is publishing Board information in its updates and press releases. Mr. Sweeney reported that he e-mails all public information notices to CCGO for distribution to its members. He recommended that the Board consider further dissemination of information by e-mail.

6. DISCUSSION OF PERSONNEL MATTERS, EXAMINATION PROCEDURES AND RESULTS, ADMINISTRATIVE ADJUDICATION, AND PENDING LITIGATION

The Board adjourned to Closed Session pursuant to subsection (a)(1) of section 11126 of the Government Code.

The open session of the meeting resumed.

7. REPORT ON RESULTS OF CLOSED SESSION

Ms. Dominguez reported that the Board performed the annual evaluation of the Executive Officer.

8. ELECTION OF BOARD OFFICERS FOR THE NEXT YEAR

Ms. Melikian moved to elect Ms. Dominguez as President and Ms. Hoose as Vice President.

Ms. Reid seconded.

The motion passed unanimously.

9. SELECTION OF EX-OFFICIO APPOINTMENTS TO THE BOARD'S COMMITTEES

Ms. Dominguez appointed Ms. Melikian to serve on the Executive Committee.

Board members will continue to serve on committees as follows:
Ms. Dominguez – Executive and Legislative Committees; Ms. Hoose - Examination and Enforcement Oversight Committees; Ms. Melikian - Examination Committee; and Ms. Reid - Technical Advisory and Strategic

Planning Committees. As Vice President, Ms. Hoose also will serve on the Executive Committee.

10. REINSTATEMENT HEARING: WARREN LESTER SHERLING

The Board sat with Administrative Law Judge Ann E. Sarli and Deputy Attorney General Susan Fitzgerald to hear the Petition for Reinstatement of Warren Lester Sherling.

11. REINSTATEMENT HEARING DELIBERATION

The Board adjourned to Closed Session pursuant to subsection (c)(3) of section 11126 of the Government Code.

The open session of the meeting resumed.

12. REPORT ON RESULTS OF CLOSED SESSION

Ms. Dominguez announced that during closed session, the Board took under advisement the Petition for Reinstatement of Warren Lester Sherling. Mr. Sherling will receive the Board's decision within thirty to ninety days.

13. CONSIDERATION OF TEMPORARY AUTHORIZATION TO PRACTICE GEOPHYSICS UNDER SECTION 7848.1 BY DR. HARVE S. WAFF

Ms. Reid moved to approve the Application for Temporary Authorization to Practice Geophysics under section 7848.1 of Harve S. Waff, Ph.D.

Ms. Hoose seconded.

The motion passed unanimously.

14. CONSIDERATION OF APPLICATIONS FOR REGISTRATION AS A GEOLOGIST UNDER SECTION 7847 OF MARK E. GAGNON AND DAVID L. BATES

Ms. Reid moved to approve the Applications for Registration as a Geologist under section 7847 of Mark E. Gagnon and David L. Bates.

Ms. Hoose seconded.

The motion passed unanimously.

15. REPORT ON STATUS OF SB 136 (FIGUEROA) AND THE BOARD'S REVISED ACT

Mr. Sweeney reported that due to opposition to certain language in the revised Act contained in SB 136, Senator Figueroa amended the legislation to delete the revised Act. Senator Figueroa's office is waiting to receive the Board's revised proposed language addressing this opposition for reinsertion into SB 136.

The Board received background material, including correspondence from the Department of Consumer Affairs (DCA), Steve Baker, Legislative Advocate, Professional Engineers in California Government, and David C. Seymour, Chair, Association of Engineering Geologists, Southern California Section.

The California Environmental Protection Agency (CalEPA) had serious concerns with SB 136, particularly with regard to the scope of geologic practice as was defined in the bill. Mr. Duke reported that Mr. Sweeney, George Dunfield and he met with CalEPA officials on July 5, 2001, to discuss CalEPA's concerns. They discussed several amendments suggested by CalEPA and compromises that would still include the summary or review of reports for regulatory purpose within the scope of geologic practice.

DCA opposed the provisions in SB 136 defining the scope of geologic practice, authorizing the Board to hire independent legal counsel and authorizing the Board to establish continuing education requirements, fees and renewal periods by regulation. Mr. Duke reported that Mr. Sweeney and he met with Lynn Morris, DCA Deputy Director for Board Relations, and Sailaja Cherukuri, Deputy Director, DCA Legislative & Regulatory Review Division, to address their concerns with the legislation.

The Board discussed proposed amendments prepared by Mr. Duke that address the opposition received. Mr. Duke explained that he drafted the language from comments and suggestions received. Allan Hirsch, Deputy Director for External and Legislative Affairs, Cal-EPA, OEHHA, stated the amendments are acceptable to OEHHA.

The Board directed Mr. Duke to reinsert language into sections 7802.2 and 7802.3 stating that the performance of work for others in accordance with section 7802 is relevant to public welfare or the safeguarding of life, health, property, and the environment.

(Board Directive No. 01-22) – (Duke)

Ms. Hoose moved to reinsert into the proposed amendments to section 7802 the wording "including its origin, history, structure" pertaining to knowledge of the earth and the wording "and the

evaluation of the natural agents, forces and processes that cause changes in the earth” as part of the definition of geology.

Ms. Dominguez seconded.

The motion passed by majority. (Aye – Dominguez, Hoose, Melikian.
No – Reid)

Mr. Duke advised the Board that it could take regulatory action to further define a geologic investigation.

Ms. Hoose moved to delete the wording “and the effect of geologic materials on the natural” as it pertains to quality and movement of water in the proposed amendments to section 7809(f)

Ms. Melikian seconded.

The motion passed unanimously.

The Board agreed to amendments deleting the Board’s authority to hire independent legal counsel and to adopt regulations to establish fees, renewal dates and continuing education requirements.

The Board questioned Mr. Sweeney regarding Senator Figueroa’s position on including the Board’s fee increases in SB 136. Ms. Dominguez informed the Board that she plans to meet with Senator Figueroa. If Senator Figueroa does not agree to amendments increasing fees, the Board directed Mr. Sweeney to proceed with the other amendments.

(Board Directive No. 01-23) – (Sweeney)

Mr. Duke explained that in the event the bill passes with the proposed amendments, the Board must be prepared to do regulatory changes. The Board directed Mr. Duke to identify sections of the regulations where substantive changes in the law will require the Board to make regulatory changes. This information should be provided to Technical Advisory Committee for review at its next meeting and recommendation to the Board at its September 28, 2001, meeting.

(Board Directive No. 01-24) – (Duke/Technical Advisory Committee)

16. UPDATE ON COOPERATIVE EFFORTS WITH THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY’S OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CONCERNING THE REGISTERED ENVIRONMENTAL ASSESSOR PROGRAM

Mr. Sweeney reported that he is in continuing discussions with CalEPA’s OEHHA regarding the Registered Environmental Assessor Program.

Ms. Dominguez and he are meeting with Joan Denton, Director, OEHHA, and Val Siebal, Chief Deputy Director, OEHHA, on August 6, 2001.

The Board thanked Richard Bailey and Allan Hirsch of OEHHA for attending the meeting and expressed its continued interest in working cooperatively.

17. UPDATE ON ACTIVITIES WITH THE NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY

- a. The Board discussed a memorandum, dated June 1, 2001, from the National Association of State Boards of Geology (ASBOG) regarding its non-endorsement of examination preparation courses, study guides or publications. No action was taken to disseminate the information in the memorandum.
- b. The Board discussed the ASBOG Annual Meeting on October 8-14, 2001, in Pittsburgh, Pennsylvania. Ms. Dominguez, Ms. Hoose and Mr. Sweeney will attend the Annual Meeting. Robert Tepel and Dr. Williams will represent the Board at the Council of Examiners meeting.

Due to confusion in the past, Ms. Hoose will contact an ASBOG officer to obtain an agenda and the protocol for the meeting which she will share with Ms. Dominguez and Mr. Sweeney.

(Board Directive No. 01-25) – (Hoose)

- c. The ASBOG Finance Committee will consider the procedures for the upcoming ASBOG audit. Ms. Dominguez is a member of that Committee. She will contact Darrel W. Schmitz, Ph.D., Chair of the Committee, to discuss the matter.

(Board Directive No. 01-26) – (Dominguez)

18. EXECUTIVE COMMITTEE REPORT

- a. Ms. Reid reported that the Executive Committee met on June 1, 2001, to consider the Board's fund condition and possible solutions.
- b. The Committee identified the following alternatives to remedy the Board's fund condition:

Reduce personnel costs. The Committee recommended that Mr. Sweeney maximize salary savings but also identify and keep crucial positions.

Save the current cost of sending postcards by using electronic mailings to announce the availability on the website of newsletters

and information bulletins. Mr. Sweeney reported that Information Bulletin No. 01-03 will be electronically distributed through California Council of Geoscience Organizations and other organizations. The Board directed Mr. Sweeney to advise licensees that the Board will have a serious fund balance condition within two years and that this is an urgent cost-saving activity it is initiating. He also was directed to maintain a copy of any request for electronic transmittal.

(Board Directive No. 01-27) – (Sweeney)

Continue to save on travel expenditures. The Committee recognized that the Board has done this by holding all meetings in Sacramento and reducing the number of Board and Committee meetings. Ms. Melikian expressed concern about holding meetings only in Sacramento. She suggested that the Board consider at least one meeting in the San Francisco Bay Area and one meeting in Southern California when it schedules the 2002 meetings on September 28, 2001. The Board stressed that it is its goal to re-establish meetings in Northern and Southern CA as soon as fiscally possible. The Board directed Mr. Sweeney to determine the costs of scheduling meetings in state buildings in Oakland and Southern California.

(Board Directive No. 01-28) – (Sweeney)

Defer conducting occupational analyses. Mr. Sweeney reported that it is recommended, but not mandatory, that boards conduct occupational analyses every five years. The next Certified Hydrogeologist occupational analysis is scheduled in three years, and the next Certified Engineering Geologist occupational analysis is scheduled in four years. The Certified Hydrogeologist occupational analysis can be deferred based on current budget information.

Reducing the frequency of administration of Board examinations. This item is covered under Agenda Item No. 22.

19. TECHNICAL ADVISORY COMMITTEE REPORT

Julia Turney, member, Technical Advisory Committee, reported for Robert Larson, Chair, who was unable to attend.

- a. The Committee met on June 22, 2001. It welcomed its new member Brian Hirst.

The Committee reviewed proposed language regarding the electronic transmittal of seals and signatures. The Committee will adopt recommended regulation language at its next meeting for review by the Board at its September 28, 2001, meeting.

The Committee also continues to review the Code of Professional Standards.

- b. The Committee recommended to the Board the appointment of Martin J. Miele as the Registered Geophysicist member.

Ms. Reid moved to appoint Martin J. Miele as the Registered Geophysicist member of the Technical Advisory Committee.

Ms. Hoose seconded.

The motion passed unanimously.

- c. The next TAC meeting is scheduled on September 7, 2001.

20. LEGISLATIVE COMMITTEE REPORT

J. C. Isham, Chair, Legislative Committee:

- a. SB 136 (Figueroa) was addressed under Agenda Item No. 15.
- b. AB 791 (Chavez) that required that all determinations by the Department of Health Services of compliance with existing law establishing bottled water labeling requirements for specific water types be supported by a certification report from a Registered Geologist subject to regulation by the Board is dead.
- c. AB 269 (Correa) that created the Division of Enforcement Oversight within DCA and provided that the executive officer of each board within DCA be appointed by a three-member panel comprised of a representative of the board, the Director and the Governor's appointment secretary is dead.
- d. AB 1118 (Corbett) that required seismic retrofit construction of an apartment, condominium or congregate residence with more than four dwelling units be designated by a Licensed Architect or Registered Engineer and that a Registered Geologist be consulted for geologic-related matters is dead.
- e. There were no other Legislative Committee informational items.

21. EXAMINATION COMMITTEE REPORT

John Williams, Ph.D., Chair, Examination Committee:

- a. The Board received draft minutes of the May 18, 2001, Committee meeting.

The Committee adopted a recommendation to the Board to immediately rescind the comity agreement with the State of Idaho because Idaho is converting to the ASBOG examinations.

Ms. Hoose moved to immediately rescind the comity agreement between the Board and the State of Idaho based on its use of the ASBOG examination.

Ms. Dominguez seconded.

The motion passed by majority. (Aye – Dominguez, Hoose, Melikian. Abstain – Reid)

- b. In a continuing effort to decrease expenditures, the contract to implement on-demand testing of the Registered Geologist California-Specific Examination is being deferred until funds are available with savings of approximately \$12,000. Dr. Williams stated that although it is disappointing, perhaps it is more realistic because it was stretching to critical limits the amount of examination material that was required at this point.
- c. As a result of recent legislation, veterans may now use their G.I. Bill benefits to pay the cost of approved licensing and certifications tests. The Board's examinations are approved for reimbursement to veterans.
- d. Dr. Williams suggested that the Committee be requested to provide an analysis on the once-a-year administration of all Board examinations. The Board directed Mr. Sweeney to put the matter on the agendas for the next Examination Committee and TAC meetings.

(Board Directive No. 01-29) – (Sweeney)

The Board received attendance and pass rate statistics for the Spring 2001 examinations. Ms. Hoose suggested that this information be posted on the website.

22. CONSIDERATION OF EXECUTIVE OFFICER'S RECOMMENDATION TO ADMINISTER THE BOARD'S EXAMINATIONS ONCE A YEAR INSTEAD OF TWICE, BEGINNING IN FISCAL YEAR 2002-2003

The Board deferred action on this item to its September 28, 2001, meeting. The Board directed Mr. Sweeney to post a notice on the website that it is considering reducing the frequency of administration of all examinations to once a year and requesting input.

(Board Directive No. 01-30) – (Sweeney)

23. CONSIDERATION OF POTENTIAL CHANGE TO BOARD POLICY REGARDING PLACING CLOSED CASE INFORMATION ON THE BOARD'S WEBSITE

Mr. Duke stated that at the April 20, 2001, Board meeting, Joseph Odencrantz, Ph.D., and his attorney, Richard Needham, requested the Board to change its policy regarding how it publicizes enforcement actions, specifically related to Citations and Fines. At the April 20, 2001, meeting, the Board directed Mr. Sweeney to provide a copy of the Board's disclosure policy to cited individuals at the time of the settlement conferences. It also directed Mr. Sweeney to move to a separate category in the enforcement actions section on the website the citation and fine cases already posted where there was no admission of liability and delete the individuals' names in these cases. The Board also directed Mr. Sweeney to review the Board's current disclosure policy and revise it as necessary for consideration at this meeting.

Mr. Duke reported that an issue has arisen since that time because Dr. Odencrantz is not satisfied. Mr. Sweeney did appropriately remove and change the enforcement section dealing with Citations and Fines as related to Dr. Odencrantz. He no longer appears as such on the website. However, the Board has posted its newsletter and minutes on the website that reference Dr. Odencrantz. Therefore, Mr. Needham claims that the information still appears on the website. Mr. Duke responded to Mr. Needham explaining that Mr. Sweeney acted as directed by the Board by removing it from the enforcement section on the website and that the newsletter and minutes are historical documents. Mr. Duke advised Mr. Needham that he would bring the matter to the Board's attention.

Mr. Sweeney informed the Board that DCA is proposing to implement a revised complaint disclosure policy to be used department-wide. The Board directed Mr. Duke to write to Mr. Needham advising him that the Board will reserve time to take action pending completion of DCA's complaint disclosure policy.

(Board Directive No. 01-31) – (Duke)

24. REPORT ON CALIFORNIA MINING ASSOCIATION MEETING MAY 22-25, 2001, IN MONTEREY

Ms. Ferreira reported that she and Mr. Dunfield staffed a Board booth at the California Mining Association Meeting in Monterey on May 22 to 25, 2001. Mr. Dunfield and Ms. Ferreira recommended that the Board not have a booth next year due to the low attendance and fiscal restraints.

25. REPORT ON REGULATIONS ADOPTED BY THE STATE WATER RESOURCES CONTROL BOARD FOR IMPLEMENTING AB 2886 (KUEHL)

[DIGITAL SIGNATURES]

Mr. Dunfield reported that the State Water Resources Control Board is moving forward on regulations to implement AB 2886 (Kuehl) regarding digital signatures. The current regulations cover submission of electronic laboratory data for Underground Storage Tank Program reports.

26. REPORT FROM BOARD ATTORNEY ON STATUS OF ASSIGNMENTS

Mr. Duke reported the rulemaking files to amend sections 3005 and 3008 were submitted to the Office of Administrative Law on July 30 and August 1, 2001.

27. ANNOUNCEMENTS/ACTIVITIES OF BOARD MEMBERS

There were no Board member announcements or activities to report.

28. ESTABLISH AGENDA FOR SEPTEMBER 28-29, 2001, BOARD MEETING IN SACRAMENTO WITH NOTIFICATION THAT ITEMS MUST BE SUBMITTED TO BOARD OFFICE NO LATER THAN SEPTEMBER 7, 2001

Mr. Sweeney requested that agenda items for the September 28-29, 2001, Board meeting be submitted to him by September 7, 2001. The Board directed Mr. Sweeney to cancel the second day of the meeting if the agenda does not warrant a two-day meeting.

Board Directive No. 01-32) – (Sweeney)

29. ADJOURN MEETING

Ms. Dominguez adjourned the meeting at 3:05 PM.

DORENE DOMINGUEZ, President

PAUL SWEENEY, Executive Officer

Date Approved: September 28, 2001